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7 **UNITED STATES DISTRICT COURT**
8 **WESTERN DISTRICT OF WASHINGTON**
9 **AT SEATTLE**

10 STATE OF WASHINGTON, et al.,

NO. 2:25-cv-00848

11 PLAINTIFFS,

DECLARATION OF LEA
COLLINS-WORACHEK IN
SUPPORT OF PLAINTIFFS'
MOTION FOR PRELIMINARY
INJUNCTION

12 v.

13 U.S. DEPARTMENT OF
TRANSPORTATION et al.,

14 DEFENDANTS.

15 I, Lea Collins-Worachek, declare under the penalty of perjury pursuant to 28 U.S.C. §
16 1746 that the foregoing is true and correct:

17 1. I am a resident of the State of Wisconsin. I am over the age of 18 and have
18 personal knowledge of all the facts stated herein, except to those matters stated upon
19 information and belief; as to those matters, I believe them to be true. If called as a witness, I
20 could and would testify competently to the matters set forth below.

21 2. I am currently employed by the Wisconsin Department of Transportation as the
22 Administrator of the Budget of Strategic Initiatives.

23 3. As Administrator, I am responsible for leadership oversight of the department's
24 biennium budget. I manage the department's performance improvement program including the
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ATTORNEY GENERAL OF WASHINGTON
Environmental Protection Division
800 Fifth Avenue STE 2000
Seattle, WA 98104
206-464-7744

1 department's research and library program. I also provide oversight of the development and
 2 coordination of the department's strategic initiatives.

3 4. Federal funding currently provides approximately 29% of the Wisconsin
 4 Department of Transportation's budget. All federally funded programs, including
 5 transportation infrastructure, rely on federal funding to maintain and improve the state's
 6 transportation system. Some programs, such as certain local infrastructure programs and the
 7 state's Electric Vehicle Infrastructure program, have no funding and rely completely on federal
 8 funding and a non-federal, non-state funding share. Those programs would likely be
 9 discontinued without federal funding or funding for other programs would need to be reduced
 10 to maintain them.
 11

12 5. The Wisconsin state legislature passed and the Governor signed into law two Acts –
 13 2023 Wisconsin Act 121 and 2023 Wisconsin Act 122 – related to the state's
 14 electric vehicle infrastructure program. Act 121 created a framework for the
 15 program, which included providing definitions, made taxing changes, and allowed
 16 the sale of electricity by a non-utility. Act 122 created appropriations in the state
 17 budget or the electric vehicle infrastructure program in the state and created the
 18 statutory authority for the Wisconsin Department of Transportation to administer
 19 the electric vehicle infrastructure program.
 20

21 6. Like many states, Wisconsin expected the National Electric Vehicle
 22 Infrastructure ("NEVI") Formula Program established in the Infrastructure Investment and
 23 Jobs Act ("IIJA") to play a critical role in the State's ability to transition to electrification of
 24 vehicles. See IIJA, Pub. L. No. 117-58, 135 Stat. 429 (2021).
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1 7. 1. The IIJA allocated \$5 billion over federal fiscal years 2022 - 2026 for
 2 the NEVI Formula Program to fund strategic deployment of electric vehicle (“EV”) charging
 3 infrastructure. The Federal Highway Administration (“FHWA”) administers the NEVI
 4 program. Each state is required to submit a State Electric Vehicle Infrastructure Deployment
 5 Plan (“State Plan”) for each fiscal year describing how the state intends to use the NEVI funds.
 6

7 8. The IIJA further requires the Secretary of Transportation, within ninety (90)
 8 days of the statute’s enactment and in coordination with the Secretary of Energy, to develop
 9 “guidance for States and localities to strategically deploy electric vehicle charging
 10 infrastructure” consistent with the NEVI Formula Program provisions of the IIJA (“NEVI
 11 Formula Program Guidance”). FHWA issued NEVI Formula Program Guidance on February
 12 10, 2022, and has updated the guidance annually.
 13

14 9. Wisconsin prepared and provided to the FHWA its State Plans for fiscal years 2022-
 15 2025 describing how it intended to use its share of funds to carry out the NEVI
 16 Formula Program. Wisconsin’s first plan, developed over the course of 2022 by the
 17 Wisconsin Department of Transportation with the input and engagement from a
 18 broad range of stakeholders, establishes the State of Wisconsin’s overall approach
 19 to the investment of an estimated \$78.65 million of NEVI Formula Program funds
 20 over five years.
 21

22 10. The FHWA approved Wisconsin’s State Plans in letters dated September 14,
 23 2022, September 29, 2023, and November 15, 2024 (“State Plan Approvals”). Each letter
 24 explicitly stated that “[w]ith this approval, Fiscal Year . . . funds are now available to Wisconsin
 25 for obligation.”
 26

11. The FHWA allotted Wisconsin \$11,642,061 for FY22, \$16,753,057 for 23,
\$16,753,173 for FY24, and \$16,753,188 for FY25.

12. In January 2024, the Wisconsin Department of Transportation issued a notice of
funding opportunity (“NOFO”) and RFP through the NEVI Formula Program for
charging infrastructure along Wisconsin’s Alternative Fuel Corridors. The
NOFO/RFP closed on April 1, 2024, The Wisconsin Department of Transportation
issued 53 grant awards.

13. On January 20, 2025, President Trump issued an Executive Order (“EO”) entitled Unleashing American Energy. Section 7(a) of the EO directs all agencies to “immediately pause disbursement of funds appropriated through” the IIJA, “including but not limited to funds for electric vehicles charging stations made available through the NEVI Program.”

14. On February 6, 2025, Wisconsin Department of Transportation received a letter from Emily Biondi, the Associate Administrator for the Office of Planning, Environment and Realty in the FHWA, with the subject “Suspending Approval of State Electric Vehicle Infrastructure Deployment Plans.”

15. The February 6 letter informed State Transportation Directors that the new leadership of DOT “has decided to review the policies underlying the implementation of the NEVI Formula Program” and was therefore rescinding NEVI Formula Program Guidance.

16. The February 6 letter further claimed that FHWA “aims to have an updated draft NEVI Formal Program Guidance published for public comment in the spring” and that

1 the Agency “will publish updated final NEVI Formula Guidance that responds to comments
2 received” after the public comment period has closed.

3 17. Finally, the FHWA informed Wisconsin Department of Transportation that it
4 would be “immediately suspending the approval of all State Electric Vehicle Infrastructure
5 Deployment plans for all fiscal years” and prohibiting future obligations “under the NEVI
6 Formula Program until the updated final NEVI Formula Program Guidance is issued and new
7 State plans are submitted and approved.”

8 18. The February 6 letter therefore made clear that Wisconsin Department of
9 Transportation would not have access to the total in FY22-25 funds which had been made
10 available to Wisconsin through its State Plan Approvals. FHWA has further given Wisconsin
11 Department of Transportation no sense of how it can apply for the remaining \$16,753.222 it
12 expected to receive for FY 2026.

13 19. Wisconsin Department of Transportation] relied and acted upon the FHWA’s
14 statutory obligation to provide NEVI formula funding consistent with the IIJA’s
15 requirements. As of February 6, 2025, 15 grant awards under the Wisconsin
16 Department of Transportation’s first RFP, representing \$7.3 million, remain
17 unobligated. Wisconsin is unable to continue work implementing these grant
18 awards. On October 14, 2024, the Wisconsin Department of Transportation issued a
19 second RFP under the NEVI Formula Program with the intention to select grant
20 awards in Spring 2025. As of February 6, 2025, Wisconsin has obligated
21 approximately \$16 million of NEVI Formula Program funding. Currently,
22 Wisconsin does not have access to approximately \$62.65 million of its remaining
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apportionment of NEVI Formula Program funding and cannot issue awards under the current RFP.

20. Even if the FHWA issues new final NEVI Formula Program Guidance, the Wisconsin Department of Transportation will shoulder the unnecessary cost and burden of developing new State Electric Vehicle Infrastructure Deployment Plans despite having invested months and significant resources developing its previously approved plans. And in the meantime, as a direct result of FHWA's unlawful actions, WisDOT cannot complete current grant awards or issue awards under the currently open RFP. Grants under the NEVI Formula Program funding electric vehicle charging infrastructure projects are critical to addressing climate change and protecting the welfare of Wisconsin's residents.

I declare under penalty of perjury under the laws of the United States that, to the best of my knowledge, the foregoing is true and correct.

DATED this 30 day of April, 2025, at Madison, Wisconsin.

Lea Collins-Worachek

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